

STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

MUR: No. 04-0063

STATEMENT OF REASONS OF EXTERNAL INVESTIGATIVE CONSULTANT

On behalf of the Citizens Clean Elections Commission (“Commission”), the External Investigative Consultant hereby provides the Statement of Reasons showing reason to believe violations of the Citizens Clean Elections Act and Commission rules occurred.

I. Procedural Background

On March 2, 2005, Patrick Meyers (“Complainant”) filed a complaint against Ann Kirkpatrick (“Respondent”), a participating candidate for State Representative, District 2, alleging that Respondent failed to pay the vendor directly for goods and services and exceeded the petty cash limitation of \$1,100. Exhibit A. On April 26, 2005, Respondent responded to the complaint and provided supporting documentation for the campaign expenditures. Exhibit B. Respondent’s campaign finance report for the 2004 election cycle is attached as Exhibit C.

II. Alleged Violations

1. Respondent reported payment of \$2,500.00 on July 29, 2004 to Primary Consultants for signs and consulting. Complainant alleges that Primary Consultants is not a sign vendor, therefore the Respondent failed to pay the vendor directly. Respondent provided an amended invoice from Primary Consultants that offers sufficient detail that Billboard Poster provided the signs for \$750 and Primary Consultants provided consulting for \$1,750 for a total invoice of \$2,500.00. Respondent also provided an amended campaign finance report to reflect full name and street address of each vendor, a description of the goods and services provided and compensation for which the payments were made. The invoice is attached with Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

2. Respondent reported payment of \$3,574.80 on August 30, 2004 to Primary Consultants for palm cards, a mailer, VBM chases, and consulting. Complainant alleges that Primary Consultants is not a printer, a mail house or a postage vendor, therefore the Respondent failed to pay the vendor directly. Respondent provided three amended invoices from Primary Consultants that offers sufficient detail regarding the vendor who provided each service. Drum Mailing provided the VBM Chases at \$324.80, Drum Printing provided the printing for \$1,500.00, Kathy Reed Graphic Designs provided the design and layout for \$525.00 and Primary Consultants provided consulting for \$1,225.00. Respondent also provided an amended campaign finance report to reflect full name and street address of each vendor, a description of the goods and services provided and compensation for which the payments were made. The invoice is attached with Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

3. Respondent reported two separate payments to the campaign's petty cash account totaling \$1,200.00 on September 7, 2004. Complainant alleges that the Respondent exceeded the petty cash balance limit of \$1,100.00. Respondent provided a history of deposits and expenditures from the petty cash fund for the relevant time period. While the petty cash account reflects a deposit on September 3, 2004 for \$1,000.00 and another deposit on September 7, 2004 for \$200.00, the campaign finance report reflects these deposits were made on the same day. Respondent recognized another violation in responding to complaint, which was violating the limitation on making a payment out of the petty cash account of more than \$100.00, which was a payment of \$897.00 to Primary Consultants on September 10, 2004.

4. Respondent reported payment of \$151.50 on August 31, 2004 to Primary Consultants for VBM chases. Complainant alleges that Primary Consultants is not a printer, a mail house or a postage vendor, therefore the Respondent failed to pay the vendor directly. Respondent provided amended invoice from Primary Consultants that offers sufficient detail that Drum Mailing provided VBM chases for \$151.50. Respondent also provided an amended campaign finance report to reflect full name and street address of each vendor, a description of the goods and services provided and compensation for which the payments were made. The invoice is attached with Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

5. Respondent reported payment of \$2,424.62 on September 7, 2004 to Primary Consultants for postcards. Complainant alleges that Primary Consultants is not a printer, a mail house or a postage vendor, therefore the Respondent failed to pay the vendor directly. Respondent provided amended invoice from Primary Consultants that offers sufficient detail regarding the vendor who provided each service. Drum Printing provided the postcard printing for \$1,524.62, Kathy Reed Graphic Designs provided the design and layout for \$350.00 and Primary Consultants provided consulting for \$550.00. Respondent also provided an amended campaign finance report to reflect full name and street address of each vendor, a description of the goods and services provided and compensation for which the payments were made. The invoice is attached with Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

6. Respondent reported payment of \$3,679.53 on September 6, 2004 to Primary Consultants for mailing, postage and consulting. Complainant alleges that Primary Consultants is not a printer, a mail house or a postage vendor, therefore the Respondent failed to pay the vendor directly. Respondent provided amended invoice from Primary Consultants that offers sufficient detail regarding the vendor who provided each service. Drum Mailing provided the mailing postage at \$1,076.53 and Primary Consultants provided the consulting at \$3,500.00. Respondent also provided an amended campaign finance report to reflect full name and street address of each vendor, a description of the goods and services provided and compensation for which the payments were made. The invoice is attached with Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

Claimant also questioned if Respondent is reporting expenditures as they incurred, as three invoices were paid on the same day to Primary Consultants. The dates of the invoices were August 31, 2004, September 6, 2004 and September 8, 2004, which were all reported as expenditures within a timely manner.

As a participating candidate, Respondent was not required to file the trigger reports as expenditures were made prior to the primary election. Pursuant to A.R.S §§ 16-941(B) & -958, nonparticipating candidate shall file an original and supplemental reports when expenditures exceed 70 percent and 10 percent, respectively, of the primary election spending limit and shall file the reports within one business day of reaching the trigger during the last two weeks of the election. Rather, participating candidates shall comply with the reporting deadlines set forth in A.R.S § 16-913(B)(2), which required all campaign activity that occurred between August 19, 2004 and September 27, 2004 be reported no later than October 7, 2004, in the Post-Primary Report. Accordingly, Respondent complied with the reporting requirements applicable to participating candidates by reporting the expenditure to Primary Consultants for mailers produced and mailed just days before the primary election in the Post-Primary Report. The invoices are attached with Exhibit B.

7. Respondent reported payment of \$4,942.15 on October 7, 2004 to Primary Consultants for signs, palm cards, walk list and mailer. Complainant alleges that Primary Consultants is not a sign printer, a direct mail printer, a mail house or a postage vendor, therefore the Respondent failed to pay the vendor directly. Respondent provided amended invoice from Primary Consultants that offers sufficient detail regarding the vendor who provided each service. Billboard Poster provided the signs for \$725.96, Drum Printing provided the palm cards for \$643.21, Blaemire Communications provided the walk list for \$372.98, Drum Printing provided the "Definer mailing" for \$1,900.00, Kathy Reed Graphics provided the design and layout for \$550.00, and Primary Consultants provided the consulting for \$750.00. Respondent also provided an amended campaign finance report to reflect full name and street address of each vendor, a description of the goods and services provided and compensation for which the payments were made. The invoice is attached with Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

8. Respondent reported payment of \$2,347.25 on October 12, 2004 to Primary Consultants for a radio buy, VBM chase, printing and postage. Complainant alleges that Primary Consultants is not a printer, a mail house, postage vendor or radio station, therefore the Respondent failed to pay the vendor directly. Respondent provided amended invoice from Primary Consultants that offers sufficient detail regarding the vendor who provided each service. Radio buys were made by Yavapai Broadcasting Group for \$1,159.25 and Rocket Radio Corporation for \$238.00 and VBM Chases were made by Drum Mailing for \$950.00. Respondent also provided an amended campaign finance report to reflect full name and street address of each vendor, a description of the goods and services provided and compensation for which the payments were made. The invoice is attached with Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

9. Respondent reported payment of \$1,127.27 on October 27, 2004 to Primary Consultants for VBM chase and mailing lists. Complainant alleges that Primary Consultants is not a printer, a mail house, or postage vendor, therefore the Respondent failed to pay the vendor directly. Respondent provided amended invoice from Primary Consultants that offers sufficient detail that Drum Mailing provided postage and mail house charges for \$832.27 and Blaemire Communications provided the mailing list for \$295.00. Respondent also provided an

amended campaign finance report to reflect full name and street address of each vendor, a description of the goods and services provided and compensation for which the payments were made. The invoice is attached with Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

10. Respondent reported payment of \$501.54 on October 28, 2004 to Wells Fargo Bank for a KTNN Radio Buy. Complainant alleges that the payment was not made directly to the vendor. Although the payment was made to a credit card company instead of the vendor, the description on the campaign finance report provides sufficient detail of the items purchased and the expenditures were for a direct campaign purpose.

11. Respondent reported payment of \$3,070.16 on November 2, 2004 to Primary Consultants for Correction in Balance Entry. Complainant alleges that a 15% accounting correction seemed unreasonable and the entry did not provide a description for the services that were rendered. Respondent says this entry was made in error, and should have instead been reported as a \$4,105.16 to Primary Consultants as payment for four invoices. While this appears as an imbalance of \$1,030.00, Respondent discovered an error in the Pre-Primary report that resolves the imbalance. As reflected by an entry on July 14, 2004. Respondent erroneously reported an expenditure to the Commission for qualifying contributions equal to \$1,120.00. With these amendments, the report reflects contributions exceeding expenditures by \$85.00.

Drum Mailing	\$ 774.51
Yavapai Broadcasting Corp	550.00
Primary Consultants	1,737.75
Fed Ex	25.00
Kathy Reed Graphics	300.00
Campaign Finance Co	600.00
Datacall	<u>\$ 117.90</u>
Total	<u>\$ 3,070.16</u>

Respondent also provided an amended campaign finance report to reflect full name and street address of each vendor, a description of the goods and services provided and compensation for which the payments were made. The invoice is attached with Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

III. Reason to Believe Finding

Based on the evidence provided to the Commission and the Respondent's campaign finance reports, the External Investigative Consultant recommends the Commission find reason to believe violations of the Act or Commission rules occurred. There was a violation of A.R.S. 16-948, which states, "No single expenditure shall be made from a petty cash account exceeding one hundred dollars."

The Respondent has acknowledged the violation as alleged and has proposed that a public administrative settlement be entered to terminate this proceeding. The External Investigative Consultant recommends Commission approval of the Settlement Agreement attached as Exhibit D.

Dated this ____ day of July, 2005

By: _____
L. Gene Lemon
External Investigative Consultant